

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 611 - SB 926

April 3, 2009

SUMMARY OF BILL: Increases the penalty for attempted second degree murder, aggravated rape, and carjacking offenses committed by persons acting in concert with two or more others one classification higher than if the defendant acted alone. Existing Class A felonies committed by persons acting in concert with two or more persons will be sentenced at the maximum range.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$1,956,000/Incarceration*

Assumptions:

- According to Department of Correction (DOC), there has been an average of 74 admissions for the Class B felony of attempted second degree murder. Assume 12 percent (9) of those were committed in concert with two or more persons and will be convicted of the Class A felony offense of attempted second degree murder in the first year as a result of this bill. According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in one additional person.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to DOC, the average post-conviction time served for a Class C is 3.59 years, 6.17 years for a Class B, and 14.86 years for a Class A. The cost per offender at 3.59 years is \$78,426.50 (\$59.80 x 1,311.48 days). The cost per offender at 6.17 years is \$134,727.00 (\$59.80 x 2,252.96 days). The cost per offender at 14.86 years is \$324,636.26 (\$59.80 x 5,428.70 days).
- According to DOC, 42 percent of offenders will re-offend within three years of their release. A recidivism discount of 42 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (10 offenders x 42% recidivism discount = 4 offenders). The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 6 (10 - 4 offenders) serving an additional time on their sentences. Six


persons will serve an additional 8.69 years (an increase from 6.17 years to 14.86 years). The cost of increasing the average sentence length is \$189,909.26 (\$324,636.26 - \$134,727.00). The total additional operating cost for six offenders is \$1,139,455.56 (\$189,909.26 x 6).

- According to DOC, there has been an average of 25 admissions for the Class B felony offense of carjacking. Assume 12 percent (3) of those were committed in concert with two or more persons and will be convicted of the Class A felony offense of carjacking. No significant incarceration cost increase will occur due to population growth in this period. A recidivism discount of 42 percent has been applied to this estimate (3 offenders x 42% recidivism discount = 1 offenders). The maximum cost in the tenth year is based on two (3 - 1) offenders serving an additional 8.69 years (an increase from 6.17 years to 14.86 years). The cost of increasing the average sentence length is \$189,909.26 (\$324,636.26 - \$134,727.00). The total additional operating cost for two offenders is \$379,818.52 (\$189,909.26 x 2).
- According to DOC, there has been an average of 25 admissions for the Class A felony offense of aggravated rape. Assume 12 percent (3) of those were committed in concert with two or more persons and will be convicted of the Class A felony offense of aggravated rape at the maximum range (25.0 years). No significant incarceration cost increase will occur due to population growth in this period. A recidivism discount of 42 percent has been applied to this estimate (3 offenders x 42% recidivism discount = 1 offenders). The maximum cost in the tenth year is based on two (3 - 1) offenders serving an additional 10.14 years (an increase from 14.86 years to 25 years). The maximum cost in the tenth year is \$542,991.18 (\$59.80 x 9,080.12 days). The cost of increasing the average sentence length is \$218,354.92 (\$542,991.18 - \$324,636.26). The total additional operating cost for two offenders is \$436,709.84 (\$218,354.92 x 2).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc